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Paper No. 11

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APR 26 2002

In re Application of
Andreas Huber, et al.
Application No. 09/383,210
Filed: August 26, 1999
Attorney Docket No. 98P5542

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OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) 1.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final rejection of January 19, 2001, within the time period for reply. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and fee required by law); an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance; the filing of a request for continued examination (RCE) (accompanied by a submission and the requisite fee) under 37 CFR 1.114 (for utility or plant applications filed on or after June 8, 1995); the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a utility or plant application filed before May 29, 2000, or a design application). Since the amendment submitted does not prima facie place the application in condition for

allowance, the reply required must be a Notice of Appeal and requisite fee, an RCE accompanied by a submission; or the filing of a continuing application. See Attachment.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
Box DAC, P.O. Box 2327
Arlington, VA 22202


Or

Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

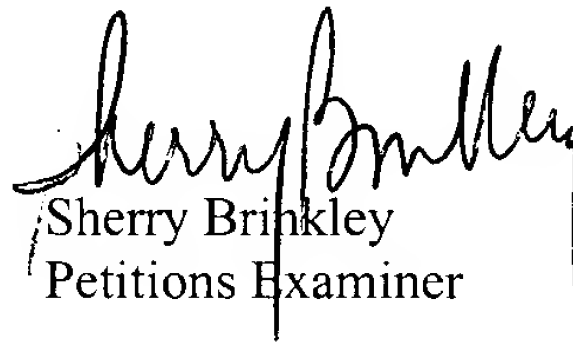
By facsimile: (703) 308-6916
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2201 South Clark Place
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Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.



Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Sherry Brinkley
Petitions Examiner